| | | |
|---|---|---|
| JOHN FOREMAN and GARY RUNGE, | ) | |
| | ) | |
| Plaintiffs, | ) | |
| | ) | |
| vs. | ) | No. 3:11-1124 |
| | ) | JUDGE TRAUGER |
| FIVE STAR FOOD SERVICE, INC., | ) | JURY DEMAND |
| | ) | |
| Defendant. | ) | |

**PLAINTIFF JOHN FOREMAN'S MOTION FOR LEAVE TO FILE HIS MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE MOTOR CARRIER ACT EXEMPTON**

Pursuant to the Court's Initial Case Management Order, Plaintiff John Foreman respectfully

moves this Court for leave to file his motion for partial summary judgment on the application of the

Motor Carrier Act Exemption.  In support of this motion, Plaintiff would show that, unlike his claim

for wrongful termination, his claim for unpaid overtime is based on the undisputed fact that he was

not involved in interstate commerce and worked more than 40hours in some workweeks without

receiving the overtime premium required under the Fair Labor Standards Act.

Plaintiff's proposed motion for partial summary judgment and memorandum in support and

statement of undisputed material facts is attached contemporaneously with this motion.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of April, 2013, a copy of the foregoing was filed electronically.  Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.  Parties may access this filing through the Court's electronic filing system.  The parties served are as follows:

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